

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOE S. DEJESUS,

Plaintiff,

v.

J. ROMERO, et al.,

Defendants.

No. 1:23-cv-01096-KES-EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
ACTION WITH PREJUDICE

Doc. 19

Plaintiff is proceeding pro se and in forma pauperis in this civil rights action. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Plaintiff's original complaint set forth a series of disagreements with correctional officer J. Romero at Pleasant Valley State Prison (PVSP) regarding plaintiff's rights and obligations with respect to a cane and ADA vest, resulting in Romero issuing plaintiff multiple Rule Violation Reports (RVRs). *See generally* Doc. 1. On February 6, 2024, the assigned magistrate judge screened plaintiff's complaint and found that it failed to state a cognizable claim. Doc. 13.

After receiving the Court's screening order, plaintiff filed a notice on February 29, 2024, entitled, in part, "Plaintiff request to stand on his complaint." Doc. 14. Thereafter, on March 15, 2024, the magistrate judge issued findings and recommendations recommending dismissal of this

1 action for failure to state a claim. Doc. 17.

2 On April 2, 2024, plaintiff filed a first amended complaint. Doc. 18. In this complaint,  
3 plaintiff asserted claims against a different defendant not named in the initial complaint,  
4 correctional officer Devilla. *Id.* at 3. The first amended complaint did not include allegations  
5 against either of the original defendants: J. Romero or A. Bustos. *Id.* at 2.

6 In light of plaintiff's filing of a first amended complaint following the Court's findings  
7 and recommendations, issued March 15, 2024, Doc. 17, the magistrate judge vacated the previous  
8 findings and recommendations and, on April 17, 2024, issued a new screening order. Doc. 19.  
9 As plaintiff's first amended complaint was not a proper amended complaint, in that it named a  
10 different defendant and alleged an entirely different incident than as alleged in the initial  
11 complaint, the screening order first addressed plaintiff's initial complaint. *Id.* The screening  
12 order reiterated the findings and recommendations of the initial screening order, and  
13 recommended dismissal for failure to state a cognizable claim. *Id.* The screening order also  
14 found that granting leave to amend would be futile because the first amended complaint did not  
15 cure the deficiencies identified in the original complaint, and instead alleged new claims against  
16 new defendants. *Id.* at 17–18. Moreover, the magistrate judge found that the new allegations  
17 similarly failed to state a cognizable claim. *Id.* at 18–19. The findings and recommendations  
18 were served on plaintiff and provided him thirty (30) days to file objections. *Id.* at 21. Plaintiff  
19 filed his objections on May 17, 2024. Doc. 20.

20 In his objections, Doc. 20, plaintiff merely repeats allegations from his initial complaint  
21 that were addressed in the findings and recommendations, Doc. 19. Plaintiff's objections do not  
22 undermine the magistrate judge's findings and recommendations. Plaintiff has been provided  
23 legal standards and afforded an opportunity to amend his complaint but has been unable to cure  
24 the deficiencies identified. Therefore, further leave to amend would be futile.

25 In accordance with 28 U.S.C. § 636(b)(1), this Court has conducted a de novo review of  
26 this case. Having carefully reviewed the file, including plaintiff's objections, the Court concludes  
27 that the findings and recommendations are supported by the record and proper analysis.

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Accordingly:

1. The findings and recommendations issued on April 17, 2024, Doc. 19, are ADOPTED IN FULL;
2. Plaintiff's complaint is DISMISSED without leave to amend for failure to state a claim upon which relief can be granted; and
3. The Clerk of the Court is directed to terminate all pending motions and to close this case.

IT IS SO ORDERED.

Dated: May 21, 2025

  
UNITED STATES DISTRICT JUDGE